



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/374,702	08/12/1999	ELDON E. BAIRD	238/186	4049

23620 7590 03/30/2005

FOLEY & LARDNER  
402 WEST BROADWAY  
23RD FLOOR  
SAN DIEGO, CA 92101

EXAMINER

MARSCHER, ARDIN H

ART UNIT	PAPER NUMBER
----------	--------------

1631

DATE MAILED: 03/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

*Supplemental*  
**Notice of Allowability**

Application No.

09/374,702

Examiner

Ardin Marschel

Applicant(s)

BAIRD ET AL.

Art Unit

1631

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☐ This communication is responsive to \_\_\_\_.
2. ☒ The allowed claim(s) is/are 1-19,22, and 26-38; renumbered as 1-34, respectively.
3. ☐ The drawings filed on \_\_\_\_ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted:
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 11/18/04.
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_.

**DETAILED ACTION**

Authorization for this examiner's amendment was given in a telephone interview with David Lentini on 11/18/04.

In the specification:

On page 1, lines 10-15, in the replacement paragraph, first line therein delete "claims priority to PCT/U98/03829"; and insert - - is a continuation-in-part of PCT/US98/03829 - -.

In order to further clarify the priority claims, an examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

On page 1, lines 10-15, in the replacement paragraph thereof, second line therein after "February 20, 1997"; delete ","; and insert therefor - - ; thereafter filed as 371 U. S. Application Number 08/837,524; filed April 21, 1997; now U. S. Patent Number 6,143,901; - -.

On page 1, lines 10-15, in the replacement paragraph thereof, lines 5-6 therein, after "part applications of"; delete "U. S. Application Serial No. 08/837,524, filed April 21, 1997; now U. S. Patent No. 6,143,901; and".

Papers related to this application may be submitted to Technical Center 1600 by facsimile transmission. Papers should be faxed to Technical Center 1600 via the Central PTO Fax Center. The faxing of such papers must conform with the notices published in the Official Gazette, 1096 OG 30 (November 15, 1988), 1156 OG 61 (November 16, 1993), and 1157 OG 94 (December 28, 1993)(See 37 CFR § 1.6(d)). The Central PTO Fax Center number is (571) 273-8300.

Art Unit: 1631

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ardin Marschel, Ph.D., Art Unit 1631 Supervisory Patent Examiner, whose telephone number is (571) 272-0718. The examiner can normally be reached on Monday-Friday from 8 A.M. to 4 P.M.

Any inquiry of a general nature or relating to the status of this application should be directed to Legal Instrument Examiner, Tina Plunkett, whose telephone number is (571) 272-0549.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

February 27, 2005

*Ardin H. Marschel 2/27/05*  
**ARDIN H. MARSCHEL**  
**SUPERVISORY PATENT EXAMINER**

Tina,

Please update the CONTINUING DATA section of the Bib. Sheet for this application as follows:

This application is a CIP of PCT/US98/03829 01/29/98 *ERROR LOSS: INVALID Parent*  
and is a CIP of PCT/US97/03332 02/20/97  
and is a CIP of 08/853,522 05/08/1997 PAT 6,635,417  
and is a CIP of PCT/US97/12722 07/21/1997  
which are CIP applications of 08/607,078 02/26/1996 PAT 6,090,947  
and provisional applications:  
60/042,022 04/16/1997  
and 60/043,444 04/08/1997  
and 60/038,384 02/14/1997  
and 60/023,309 07/31/1996  
and 60/024,374 08/01/1996  
and 60/026,713 09/25/1996

Thanks,  
Arlin

**DETAILED ACTION**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

In the specification:

On page 1, lines 10-15, delete the paragraph regarding cross-reference to related applications and insert therefor:

-- This application claims priority to PCT/U98/03829, filed January 29, 1998, and is a continuation-in-part of PCT/US97/03332, filed February 20, 1997; U.S.

Application Serial No. 08/853,522, filed May 8, 1997; now U.S. Patent No.

6,635,417; and PCT/US97/12722, filed July 21, 1997; which are continuation-in-

part applications of ~~U.S. Application Serial No. 08/837,524, filed April 21, 1997;~~

~~now U.S. Patent No. 6,143,901;~~ and U. S. Application Serial No. 08/607,078,

filed February 26, 1996; now U. S. Patent No. 6,090,947; and provisional

application 60/042,022, filed April 16, 1997, and provisional application

60/043,444, filed April 8, 1997. The priority benefit is also claimed to provisional

application 60/038,384, filed February 14, 1997, and provisional application

60/023,309, filed July 31, 1996, and provisional application 60/024,374, filed

August 1, 1996, and provisional application 60/026,713, filed September 25,

1996. The specification of these applications are incorporated herein by

reference. --

US98?

thereafter filed as 09/374,702 U.S. Appl. No. 08/837,524; filed 4-21-97, now U.S. Patent No. 6,143,901;